

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ALBERT SANTANA, JR.,

Petitioner,

-v-

9:11-CV-105 (NAM/TWD)

WILLIAM LEE,

Respondent.

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APPEARANCES:

Albert Santana
04-B-3269
Green Haven Correctional Facility
P.O. Box 4000
Stormville, New York 12582
Petitioner, pro se

v Hon. Eric T. Schneiderman, Attorney General of the State of New York
Alyson J. Gill, Esq., Assistant United States Attorney
120 Broadway
New York, New York 120271
Attorney for Respondent

Hon. Norman A. Mordue, Senior District Judge:

MEMORANDUM-DECISION AND ORDER

w Petitioner Albert Santana filed his petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 on January 31, 2011. (Dkt. No. 1). Petitioner subsequently amended this petition twice. (Dkt. Nos. 28, 39). Petitioner argued that: 1) he was deprived of due process by the prosecution's *Brady* violation in failing to disclose pending felony charges against the prosecution's witness; 2) he was deprived of effective assistance of counsel with respect to a plea offer and counsel's failure to use impeachment evidence; and 3) the prosecution violated the confrontation clause, the witness-advocate rule, and the rules prohibiting hearsay by calling a

witness who stated the prosecution's position regarding an informant's credibility. In an Order and Report-Recommendation dated April 21, 2015, United States Magistrate Judge Thérèse Wiley Dancks recommended that the Court deny and dismiss the petition and decline to issue a certificate of appealability.

Petitioner objects to Magistrate Judge Dancks' conclusions. Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court reviews *de novo* those parts of a report and recommendation to which a party specifically objects. The Court has thoroughly reviewed the amended petition, the Order and Report-Recommendation, and the state court record, and finds that Magistrate Judge Dancks accurately recounted the facts and procedural history of the case and employed the proper legal standards when analyzing petitioner's claims. Upon *de novo* review, the Court accepts and adopts the Order and Report-Recommendation in its entirety. A certificate of appealability may only be issued "if the applicant has made a substantial showing of the denial of a constitutional right."

See 28 U.S.C. § 2253(c)(2). Since petitioner has failed to make such a showing herein, the Court declines to issue any certificate of appealability in this matter. See *Hohn v. United States*, 524 U.S. 236, 239-40 (1998).

It is therefore

W ORDERED that the Order and Report-Recommendation (Dkt. No. 56) is accepted and adopted in its entirety; and it is further

ORDERED that the Second Amended Petition (Dkt. No. 39) is DENIED in its entirety and DISMISSED; and it is further

ORDERED that no certificate of appealability shall be issued; and it is further

ORDERED that the Clerk of the Court is directed to serve copies of this Memorandum-

Decision and Order in accordance with the Local Rules of the Northern District of New York.

IT IS SO ORDERED.

Date: July 2, 2015
Syracuse, New York


Norman A. Mordue
Senior U.S. District Judge

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